

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand With Consent

04-OLR-4

Koua Vang
Attorney at Law

The Respondent, Attorney Koua Vang, 40, practices in Madison, Wisconsin. This reprimand is based on Respondent's conduct in three separate matters.

In the first matter, a client retained Respondent in April 2001 to represent him in a dispute with a general contractor. Respondent agreed to represent the client up to and including court action, if necessary, for a flat fee of \$5000.00. The client paid Respondent a total of \$2800.00; \$2500.00 in April 2001 and three monthly payments of \$100.00 each.

Respondent actively worked on the client's file between April 10 and July 10, 2001. During that time period, Respondent corresponded, or otherwise communicated, with the client, the client's bank, the contractor and the contractor's attorney. According to Respondent, his time records indicate that between April 2001 and July 10, 2001, he spent 28.3 hours of time on the client's matter. Respondent did not work on the client's matter subsequent to July 10, 2001.

In a November 15, 2001 letter to Respondent, the client requested an update on his case. Respondent did not respond to the client's November 15, 2001 letter.

On March 26, 2002, the client again wrote to Respondent and stated:

It has been a year now since I've hired you. If you are not planning to do anything with my case you will need to refund the money I gave you as a retainer and let me know so that I can hire another lawyer. Since November of 2001, I've not heard anything from you. Please respond to this letter as soon as possible.

Respondent did not respond to the client's March 26, 2002 letter for four months. After Respondent had been contacted by the Office of Lawyer Regulation (OLR) about the matter, Respondent wrote a July 26, 2002 letter to the client, stating that he would like to finish the case for the client, but that if the client wished to hire another attorney, Respondent would refund a "reasonable amount" of money to him.

After retaining an attorney to assist him, Respondent eventually reached an agreement with the client and issued a refund check in the amount of \$1800.00.

By failing to work on the client's matter after July 10, 2001, or to otherwise advance the client's interests between July 10, 2001 and July 26, 2002, Respondent violated SCR 20:1.3, which requires that a lawyer act with reasonable diligence and promptness in representing a client.

By failing, after July 2001, to keep the client informed about the status of his matter, by failing to respond to the client's November 15, 2001 letter and by failing to promptly respond to the client's March 26, 2002 letter requesting a status report or a refund, Respondent violated SCR 20:1.4(a), which requires a lawyer to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

In the second matter, the State Public Defender (SPD) appointed Respondent on December 26, 2001 to serve as appellate counsel for a defendant whose probation had been revoked.

Between December 26, 2001 and February 11, 2002, the defendant sent at least two letters to Respondent requesting information and a copy of his police report, but received no response. The defendant contacted the SPD, who then prompted the Respondent to write the

defendant. Respondent answered that he would meet with the defendant and discuss the appeal after he had received and reviewed the transcripts. That letter, dated March 12, 2002, was the only communication Respondent ever had with the defendant.

On May 31, 2002, the defendant again wrote Respondent, copying the SPD, asking about the status of his case and requesting a copy of the police report. Despite further prompting from the SPD, Respondent did not respond.

After two more letters went unanswered, on March 6, 2003, the defendant wrote letters to both the Director of the Appellate Division of the SPD and the Wisconsin Court of Appeals, District IV, (Court) regarding Respondent's failure to communicate with him. On March 21, 2003, the Court ordered Respondent and the SPD to respond, within ten days from the date of the order, to the defendant's March 6, 2003 letter to the Court. Respondent failed to respond to the Court's order. An Attorney Manager filed a response on behalf of the SPD, in which he outlined the SPD's unsuccessful attempts to get Respondent to respond to SPD inquiries about the defendant's case. The Attorney Manager stated that, with the Court's approval, the SPD was willing to appoint successor counsel to represent the defendant.

On May 2, 2003, the Court discharged Respondent from his representation of the defendant and ordered Respondent to transmit the defendant's file to the SPD no later than May 13, 2003. Respondent failed to comply with the Court's May 2, 2003 order. On May 16, 2003, the Court again ordered Respondent to turn the defendant's file over to the SPD no later than May 23, 2003. Respondent failed to comply with the Court's May 16, 2003 order. On June 10, 2003, the Court ordered Respondent to hand-deliver the transcripts and file in the defendant's matter to the SPD by June 16, 2003. Respondent failed to deliver the file by

June 16, 2003 and he was fined \$25.00 per day for every day after June 16, 2003 that the file was not returned.

After retaining an attorney to assist him, Respondent had the defendant's file hand-delivered to the SPD on July 1, 2003, along with a June 30, 2003 letter of apology from Respondent to the Attorney Manager. Respondent paid the \$350.00 fine imposed by the Court on October 28, 2003. The Court granted the defendant an extension of time to file for post-conviction relief.

The grievant in this specific matter supplied the Referee with a response to the proposed discipline. OLR and Respondent's attorney also supplied the Referee with their responses to the grievant's submission. The Referee has considered all these responses in making his decision.

By failing, after March 12, 2002, to advance the defendant's interests in his case and by failing to respond to SPD inquiries regarding the status of the defendant's case, Respondent violated SCR 20:1.3, which requires that a lawyer act with reasonable diligence and promptness in representing a client.

By failing to respond to numerous written inquiries from the defendant, by failing to speak with the defendant in person or by telephone, or to otherwise keep him apprised of the status of his case, and by failing, except for the March 12, 2002 letter, to establish any communication whatsoever with the defendant, Respondent violated SCR 20:1.4(a), which requires a lawyer to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

By failing to comply with three Court orders to deliver the defendant's file and transcripts to the SPD, Respondent violated SCR 20:1.16(d) which requires, in part, that a lawyer take steps

to protect a client's interests upon termination of representation, including surrendering papers to which the client is entitled.

The third matter, brought to OLR's attention by SPD's Appellate Division Attorney Manager, involves Respondent's conduct as appointed appellate counsel for eight different State Public Defender clients.

Respondent was appointed to represent the first client on May 3, 2002. Respondent performed no work on this client's file and had no communication with the client for over a year. The client's file was returned to the SPD on July 1, 2003.

Respondent was appointed to represent a second client on May 3, 2002. Respondent performed no work on the second client's file and had no communication with the client for over a year, despite inquiries from the client. The client's file was returned to the SPD on July 1, 2003. The Court granted the client an extension of time within which to file a notice of appearance or post-conviction motion.

Respondent was appointed to represent a third client on July 23, 2002. Respondent performed no work on the third client's file, established no communication with the client and returned the client's file to the SPD on July 1, 2003. The Court granted the client an extension of time within which to file a notice of appearance or post-conviction motion.

Respondent was appointed to represent a fourth client on May 3, 2003. Respondent performed no work on the fourth client's file and had no communication with the client for over a year. Respondent returned the client's file to the SPD on July 1, 2003.

Respondent was appointed to represent a fifth client on July 23, 2002. Respondent performed no work on the fifth client's file, established no communication with the client and returned the client's file to the SPD on July 1, 2003.

Respondent was appointed to represent a sixth client on November 15, 2002. Respondent performed no work on the sixth client's file and established no communication with the client for over seven months. Respondent returned the client's file to the SPD on July 1, 2003.

Respondent was appointed to represent a seventh client on November 3, 2000. By letter dated January 24, 2001, Respondent advised the client that he intended to file a no merit report, but then failed to file the report, failed to perform any further work on the file and failed to have any further communication with the client. Respondent returned the client's file to the SPD on July 1, 2003.

Respondent was appointed to represent an eighth client in two cases. He was appointed to represent the client in the first matter on July 23, 2002 and in the second matter on November 15, 2002. Respondent performed no work on the client's files and established no communication with the client. On May 12, 2003, a court ordered Respondent removed as the client's attorney. The client's files were returned to the SPD in May 2003.

After retaining an attorney to assist him, Respondent had the clients' files hand-delivered to the SPD on July 1, 2003, along with a June 30, 2003 letter of apology from Respondent to the Attorney Manager.

With respect to each of the eight SPD clients, by failing to work on the client's matter or to otherwise advance the client's interests, Respondent violated SCR 20:1.3, which requires that a lawyer act with reasonable diligence and promptness in representing a client.

With respect to each of the eight SPD clients, by failing to keep the client informed about the status of the matter or establish communication with the client, Respondent violated SCR 20:1.4(a), which requires a lawyer to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Respondent indicated he was suffering from depression during the time period encompassing the three matters that are the subject of this reprimand.

In accordance with SCR 22.09(3), Attorney Koua Vang is hereby publicly reprimanded, with the condition that he continue to receive professional treatment for his depression for a period of two years from the date of this reprimand, unless earlier discharged from treatment by his treatment professionals, and that he cause to be submitted to the Director of OLR quarterly reports of that treatment.

Dated this 9th day of April, 2004.

SUPREME COURT OF WISCONSIN

/s/ David R. Friedman

Referee David R. Friedman